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*Attorneys for Defendants NaphCare, Inc.;  
Julie Radostitz, MD; Casey Gladney; Rachel  
Eclevia; Martha Rojo; and Aimee Zerfas*

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

EDDIE SANTOS,

Plaintiff,

vs.

NAPHCARE, INC., an Alabama corporation;  
WASHINGTON COUNTY, a state body in  
the State of Oregon; PAT GARRETT, in his  
capacity as Sheriff of Washington County;  
ROBERT DAVIS, an individual; JULIE  
RADOSTITZ, M.D., an individual; CASEY  
GLADNEY, an individual; RACHEL  
ECLEVIA, an individual; MARTHA ROJO,  
an individual; AIMEE ZERFAS, an  
individual;

Defendants.

Case No. 3:21-cv-00131-YY

**DEFENDANTS NAPHCARE, INC.;  
JULIE RADOSTITZ, MD; CASEY  
GLADNEY; RACHEL ECLEVIA;  
MARTHA ROJO; AND AIMEE  
ZERFAS' ANSWER AND  
AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S AMENDED  
COMPLAINT**

**DEMAND FOR JURY TRIAL**

Defendants NaphCare, Inc. (Naphcare), Dr. Julie Radostitz, M.D. (Dr. Radostitz), Rachel  
Eclevia (Eclevia), Martha Rojo (Rojo), Casey Gladney (Gladney), and Aimee Zerfas (Zerfas)  
(collectively "Defendants") answers Plaintiff's Amended Complaint (the Complaint) as follows:

4822-2168-9320.2

DEFENDANTS NAPHCARE, INC.; JULIE RADOSTITZ, MD; CASEY  
GLADNEY; RACHEL ECLEVIA; MARTHA ROJO; AND AIMEE ZERFAS'  
ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED  
COMPLAINT

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**ANSWER**

1.

Defendants deny every allegation in the Complaint, except as expressly admitted or alleged below.

2.

Regarding the allegations in paragraph 1, Defendants admit that Eddie Santos (hereafter “Plaintiff”) was detained in the Washington County Jail from January 28, 2019 to August 9, 2019. Defendants currently lack knowledge or information sufficient to form a belief about the truth of the remainder of the allegations in the paragraph and therefore denies the same.

3.

Regarding the allegations in paragraphs 2 and 3, Defendants admit.

4.

Regarding the allegations in paragraphs 4 through 6, those allegations are directed at other parties to this case and therefore no response is required by Defendants.

5.

Regarding the allegations in paragraph 7, Defendants admit that Dr. Radostitz is a licensed physician and was employed by NaphCare in June 2017. Defendants further admit Dr. Radostitz is a citizen and a resident of the State of Oregon. Defendants otherwise deny the allegations contained in the paragraph.

6.

Regarding the allegations in paragraph 8, Defendants admit that Gladney is a licensed Nurse Practitioner and an employee of NaphCare at all times relevant to the complaint. Defendants further admit that Gladney is a citizen and a resident of the State of Alabama.

Defendants otherwise deny the allegations contained in the paragraph.

7.

Regarding the allegations in paragraph 9, Defendants admit that Eclevia was a licensed Registered Nurse and an employee of NaphCare in the Washington County Jail at all times relevant to the complaint. Defendants further admit that Eclevia is a citizen and a resident of the State of Oregon. Defendants otherwise deny the allegations contained in the paragraph.

8.

Regarding the allegations in paragraph 10, Defendants admit that Rojo was an employee of NaphCare in the Washington County Jail at all times relevant to the complaint. Defendants further admit that Rojo is a citizen and a resident of the State of Oregon. Defendants otherwise deny the allegations contained in the paragraph.

9.

Regarding the allegations in paragraph 11, Defendants admit that Zerfas is a licensed Registered Nurse and was an employee of NaphCare in the Washington County Jail at all times relevant to the complaint. Defendants further admit that Zerfas is a citizen and a resident of the State of Oregon. Defendants otherwise deny the allegations contained in the paragraph.

10.

Regarding the allegations in paragraphs 12 and 13, admit that this Court has jurisdiction over this case and that venue is proper.

11.

Regarding paragraph 14, those allegations are directed at other parties to this case and therefore no response is required by Defendants.

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12.

Regarding paragraph 15, Defendants admit that, in 2015, NaphCare entered into a contract for the provision of medical care and services in the Washington County jail. To the extent that the allegations in the paragraph recite, describe, and/or paraphrase the terms and provisions of the contract, the contract speaks for itself. Defendants lack knowledge or information sufficient to form a belief about the truth of the remainder of the allegations in the paragraph and therefore deny the same.

13.

Regarding paragraph 16 through 19, those allegations are directed at other parties to this case and therefore no response is required by Defendants. To the extent a response is required, Defendants lack knowledge or information sufficient to form a belief about the truth of the of the allegations and therefore deny the same.

14.

Regarding paragraph 20, Defendants admit that Plaintiff entered the Washington County Jail on January 28, 2019.

15.

Regarding paragraphs through 21 and 22, Defendants lack knowledge or information sufficient to form a belief about the truth of the of the allegations contained in the paragraphs and therefore deny the same.

16.

Regarding paragraph 23, Defendants admit that Plaintiff brought norco, prednisone, colchicine, and cyclobenzaprine with him to jail, and that he did not bring allopurinol to jail.

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17.

Regarding paragraph 24, Defendants lack knowledge or information sufficient to form a belief about the truth of the of the allegation contained in the paragraph and therefore deny the same.

18.

Regarding paragraph 25, Defendants deny the allegations contained therein.

19.

Regarding paragraph 26, Defendants deny the allegations contained therein.

20.

Regarding paragraph 27, Defendants lack knowledge or information sufficient to form a belief about the truth of the of the allegation contained in the paragraph and therefore deny the same.

21.

Regarding paragraph 28, Defendants deny the allegations contained in the paragraph.

22.

Regarding paragraph 29, Defendants admit that NaphCare staff provided Plaintiff with appropriate anti-inflammatory medication and treatment when necessary to treat Plaintiff's medical conditions while detained in the Washington County Jail.

23.

Regarding paragraph 30, Defendants admit that NaphCare staff provided plaintiff with appropriate anti-inflammatory medication in amounts and on prescribed dosage schedules that were safe and medically appropriate for the medications administered.

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24.

Regarding paragraph 31, Defendants lack knowledge or information sufficient to form a belief about the truth of the of the allegation contained in the paragraph and therefore deny the same.

25.

Regarding paragraph 32, to the extent Plaintiff's allegations reference or relate to orders entered or not entered in Plaintiff's medical record, Plaintiff's records speak for themselves. To the extent that the paragraph alleges that NaphCare or Defendants provided food or controlled Plaintiff's diet while detained, Defendants deny the allegation.

26.

Regarding paragraph 33, to the extent Plaintiff's allegations reference or relate to orders entered or not entered in Plaintiff's medical record, Plaintiff's records speak for themselves. To the extent that the paragraph alleges that NaphCare or Defendants controlled access or permission for outside doctors to visit detainees in the Washington County Jail, Defendants deny the allegation.

27.

Regarding paragraph 34, Defendants admit that Plaintiff received mental health treatment while detained in the Washington County Jail. Defendants further admit that Plaintiff filed numerous grievances and medical request forms, the content of which speak for themselves. Defendants also admit that Plaintiff stated that he had been threatened by an individual claiming to be a law enforcement officer. Defendants lack knowledge or information sufficient to form a belief about the truth of Plaintiff's claims regarding being threatened, and therefore deny the same. Defendants lack knowledge or information sufficient to form a belief about the truth of all

other allegations contained in the paragraph and therefore deny the same.

28.

Regarding paragraph 35, Defendants admit that, on or about August 9, 2019, Plaintiff pled guilty to felony sexual abuse in the second degree because, “on 11/29/12 in Washington County, Oregon [he] subjected another person to sexual intercourse and she did not consent.” Defendants further admit that Plaintiff was sentenced to time served; three years of probation requiring that he enter and successfully complete a sex offender treatment program approved by his supervising probation officer; that he “not view, listen to, own or possess any sexually stimulating visual or auditory materials that are relevant to the [his] deviant behavior;” and that he register as a sex offender pursuant to Oregon’s Revised Statutes. Defendants further admit that Plaintiff was released from the Washington County Jail on or about August 9, 2019.

29.

Regarding paragraph 36, Defendants lack knowledge or information sufficient to form a belief about the truth of all other allegations contained in the paragraph and therefore deny the same.

30.

Regarding paragraphs 37 through 39, Defendants admit that they are persons within the meaning of 42 U.S.C. § 1983. Defendants further state that the nature of Plaintiff’s claims and the relief sought by Plaintiff speaks for itself.

31.

Regarding paragraph 40, Defendants incorporate and reassert their responses to the referenced paragraphs as if fully set forth herein.

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32.

Regarding paragraphs 41 through 45, Defendants deny the allegations contained therein.

33.

Regarding paragraph 46, Defendants incorporate and reassert their responses to the referenced paragraphs as if fully set forth herein.

34.

Regarding paragraphs 47 through 49, Defendants deny the allegations contained therein.

35.

Regarding paragraph 50, Defendants incorporate and reassert their responses to the referenced paragraphs as if fully set forth herein.

36.

Regarding paragraphs 51 through 54, Defendants deny the allegations contained therein.

37.

Regarding paragraph 55, Defendants incorporate and reassert their responses to the referenced paragraphs as if fully set forth herein.

38.

Regarding paragraphs 56 through 57, Defendants deny the allegations contained therein.

39.

Paragraph 58 contains allegations directed at other parties to this case and therefore no response is required by Defendants.

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**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

40.

Plaintiff's Complaint fails to state a claim for which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

41.

Some or all of Plaintiff's claims are barred in whole or in part by his own conduct, misconduct and unclean hands.

**THIRD AFFIRMATIVE DEFENSE**

42.

Defendants are entitled to all defenses, limitations, immunities, and protections set forth in the Oregon Tort Claims Act, ORS 30.260, et. seq.

**FOURTH AFFIRMATIVE DEFENSE**

43.

Plaintiff's claims may be barred in whole or in part by his failure to comply with the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a) et seq., including but not limited to the failure to exhaust all administrative remedies.

**FIFTH AFFIRMATIVE DEFENSE**

44.

Plaintiff failed to exhaust all remedies prior to suit pursuant to 42 U.S.C. § 1997e(a).

**SIXTH AFFIRMATIVE DEFENSE**

45.

Plaintiff's damages, if any, were caused by his own actions and/or inactions.

**SEVENTH AFFIRMATIVE DEFENSE**

46.

Defendants respectfully reserve the right to amend their Answer and/or affirmative defenses consistent with the Federal Rules of Civil Procedure as investigation and discovery continues.

**EIGHTH AFFIRMATIVE DEFENSE**

47.

The injuries and damages alleged in the Complaint, if any, were proximately caused by the acts or the omissions of other Defendants, third persons or entities, and/or other non-parties for which these Defendants are not liable. Defendants affirmatively allege that any and all damages alleged or implied by Plaintiff were not casually connected to the alleged actions or omissions of Defendants.

**DEMAND FOR JURY TRIAL**

Defendants request a jury trial.

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**PRAYER FOR RELIEF**

WHEREFORE, Defendants pray for relief as follows:

- a. Defendants request judgment in their favor;
- b. For Defendants' costs and disbursements incurred herein;
- c. For Defendants' attorney fees and expert fees pursuant to 42 U.S.C. § 1988 or as otherwise allowed by law; and
- d. For such other and further relief as the court deems just and equitable.

DATED this 29<sup>th</sup> day of June, 2021.

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*Julie Radostitz, MD; Casey Gladney; Rachel*

*Eclevia; Martha Rojo; and Aimee Zerfas*

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing **DEFENDANTS NAPHCARE, INC.; JULIE RADOSTITZ, MD; CASEY GLADNEY; RACHEL ECLEVIA; MARTHA ROJO; AND AIMEE ZERFAS' ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED COMPLAINT** on the following attorney by the method indicated below on the 29<sup>th</sup> day of June, 2021:

***Attorney for Plaintiff:***

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\_\_\_\_\_ Via First Class Mail  
\_\_\_\_\_ Via Federal Express  
\_\_\_\_\_ ✓ Via CM/ECF  
\_\_\_\_\_ Via Hand-Delivery  
\_\_\_\_\_ Via E-Mail

***Attorneys for Defendants Washington County,  
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